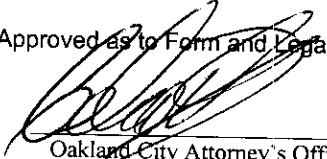


REVISED

OFFICE OF THE CITY CLERK
2007 JUL 17 PM 5:50

Approved as to Form and Legality

Oakland City Attorney's Office

OAKLAND CITY COUNCIL
RESOLUTION No. 80728 C. M. S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR HER DESIGNEE, TO 1) REJECT ALL BIDS FOR THE WASHINGTON (7TH - 9TH STREET IMPROVEMENT PROJECT (C194923) AND THE 11TH STREET SIDEWALK IMPROVEMENT PROJECT (C00800); 2) WAIVING FURTHER COMPETITIVE BIDDING REQUIREMENTS FOR THE 11TH STREET SIDEWALK IMPROVEMENT PROJECT (C00800); AND 3) AUTHORIZING THE CITY ADMINISTRATOR TO PURCHASE THE NECESSARY CONSTRUCTION SERVICES AND MATERIALS FOR THE PROJECT ON THE OPEN MARKET IN AN AMOUNT NOT TO EXCEED FOUR-HUNDRED TWENTY THOUSAND DOLLARS (\$420,000); AND 4) ACCEPTING AND APPROPRIATING REDEVELOPMENT AGENCY FUNDS UNDER THE COOPERATION AGREEMENT FOR AN AMOUNT NOT TO EXCEED FIVE HUNDRED SIXTY THOUSAND DOLLARS (\$ 560,000) AND REPORT THE BID RESULTS AND THE STATUS OF THE NEGOTIATIONS TO THE CITY COUNCIL.

WHEREAS, on June 4, 2007, the Office of the City Clerk of the City of Oakland received 4 bids for the Washington (7th - 9th Street) Project (C194923) and the 11th Street Sidewalk Improvement Project (C00800) ("Washington Street Project" and "11th Street Project") and the 4 bids were non-responsive in that the bid from Sposeto Engineering exceeded the engineers estimate of \$1,209,699 by 85%, the bid from H&H Mechanical was non-responsive because it did not include a required bid addendum, the bid from Bay Construction did not include a bid-bond and its bid exceeded the engineer's estimate by 59% and the bid from NTK Construction exceeded the engineer's estimate by 83%; and

WHEREAS, the above described bid process did not render any valid bids in which case Oakland Municipal Code Title 2, section 2.04.050.J authorizes the City Administrator to "hire or have the services performed or purchase supplies in the open market;" and

WHEREAS, the 11th Street Project is necessary to repair an existing sidewalk along 11th Street, which is cracked and uneven; and

WHEREAS, there are sufficient funds in the project budget to enter into a construction contract in an amount not to exceed Four-Hundred Twenty Thousand Dollars (\$420,000) for the 11th Street Project work; and

WHEREAS, the Redevelopment Agency of the City of Oakland has authorized a contribution of Five-Hundred and Sixty Thousand Dollars (\$560,000), including contingency, to fund the 11th Street Project; and

WHEREAS, Agency funding for the 11th Street Project is available in the FY 2005-07 Central District Redevelopment Project Subordinated Tax Allocation Bonds Series 2005 Fund (9533), Capital Improvement Projects Organization (94800), Structures and Improvements Account (57311), Streetscape Master Plan Project (P128830); and

WHEREAS, the City and the Agency entered into a Cooperation Agreement on July 1, 2004, which generally governs the provision of assistance and the payment of funds between the two agencies, including Agency financial contributions and other assistance to support City public improvements; and

WHEREAS, Section 33445 of the California Health and Safety Code authorizes a redevelopment agency to pay for the cost of installation or construction of publicly-owned facilities, if the legislative body has consented to such funding and has made certain findings; and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work; and

WHEREAS, the City Council finds and determines that the performance of this contract is in the public interest because of economy; and

WHEREAS, the City Council finds and determines that the performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive services; now, therefore, be it

RESOLVED: That the Council hereby rejects all bids submitted by Sposeto Engineering, Bay Construction, H&H Mechanical, and NTK Construction on June 4, 2007 for the Washington (7th – 9th Street Improvement Project (C194923) and the 11th Street Sidewalk Improvement Project (C00800) as they were significantly over budget and/or non-responsive in that Sposeto Engineering's bid exceeded the engineers estimate of \$1,209,699 by 85%, H&H Mechanical did not submit the 11th street bid addendum with its bid. Bay Construction did not submit a bid-bond and its bid and exceeded the engineer's estimate by 59% and NTK Construction's bid exceeded the engineer's estimate by 83%; and be it

FURTHER RESOLVED: That the City council finds and determines that it is in the best interest of the City to waive further competitive bidding pursuant to Oakland Municipal Code Title 2, Chapter 2.04.050.I.5 and hereby does so because no valid bids were rendered in the first bid process, further competitive bidding would delay the project, the 11th Street project will repair an existing sidewalk along 11th Street which is cracked and uneven and Oakland Municipal Code Title 2, section 2.04.050.J authorizes the City administrator to "hire or have the services performed or purchase supplies on the open market when no valid bids were received in a prior competitive bid process; and be it

FURTHER RESOLVED: That consistent with Oakland Municipal Code Title 2, section 2.04.050.J, the City Administrator is hereby authorized to award a construction contract for the construction of the 11th Street Sidewalk Improvement Project (C00800) in an amount not-to-exceed Four Hundred Twenty Thousand Dollars (\$420,000) on the open market, and report the bid results and the status of the negotiations to the City Council; and, be it

FURTHER RESOLVED: That the contractor will be required to meet all of the City's local and small local business and employment programs and other purchasing programs; and, be it

FURTHER RESOLVED: That the plans and specifications prepared by the Director of Public Works for this project are hereby approved; and be it

FURTHER RESOLVED: That the bond amount for faithful performance will be 100% of the negotiated price, and the bond amount to guarantee payment of all claims for labor and materials furnished and for the amount due under the Unemployment Insurance Act, will be 100% of the negotiated price, with respect to such work are hereby approved; and be it

FURTHER RESOLVED: That the City Council hereby finds and determines as follows:

1. That the funding of the project by the Redevelopment Agency will benefit the Central District Project Area by improving the appearance of and the pedestrian access on, 11th Street between Clay Street and Broadway;
2. That no other reasonable means of financing the 11th Street Sidewalk Improvement Project is available to the City other than Redevelopment Agency funding as the City's Capital Improvement Project Budget has been established; and
3. That the use of tax increment funds from the Central District Project Area for the 11th Street Sidewalk Improvement Projects will assist in the elimination of blight by installing needed streetscape improvements and correcting deteriorated conditions along 11th Street in the Central District Project Area, which will improve the aesthetic appearance and functionality of the Project Area, and is consistent with the implementation plan adopted for the Central District Project Area; and be it

FURTHER RESOLVED: That the City Council hereby consents to the use of Five Hundred Sixty Thousand Dollars (\$560,000) in Redevelopment Agency funds, including contingency, for the 11th Street Project, and allocates such funds to the Oakland Redevelopment Agency Project Fund (7780), within the Public Works Agency, Org. (94800); and be it

FURTHER RESOLVED: That the City finds and determines, based on the information in the staff report accompanying this resolution, that the project is exempt from CEQA pursuant to Section 15301 (operation, repair, or minor alteration of existing structures or facilities) or Section 15302 (replacement or reconstruction of existing structures or facilities) of the CEQA guidelines; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to enter into a contract on behalf of the City of Oakland and to execute any change orders, amendments, extensions or modifications of said agreement, within the limitations of the project specifications; and, be it

FURTHER RESOLVED: That the City Clerk is hereby directed to post conspicuously forthwith notice of the above rejection of all bids on the official bulletin board in the Office of the City Clerk; and be it

FURTHER RESOLVED: That the contract shall be reviewed and approved by the City Attorney for form and legality and placed on file in the Office of the City Clerk.

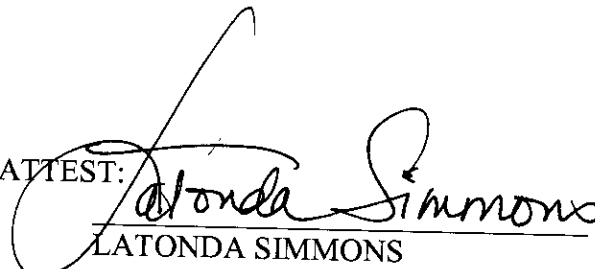
IN COUNCIL, OAKLAND, CALIFORNIA, JUL 17 2007, 2007

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT DE LA FUENTE - 8

NOES - 0
ABSENT - 0
ABSTENTION - 0

ATTEST:


LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California